THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.26197 of 2007

Between:

Amjuri Venkataramana.

.. PETITIONER

and

The Tahsildar and another.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.26197 of 2007

ORDER:

It is the case of the petitioner that he was assigned house site in

respect of Plot No.43 in Sy.No.657/2 situated at Pithapuram Village and Mandal, East Godavari District, through proceedings No.Rc.E-3771/83, dated 20-11-1984, by the then Tahsildar, Pithapuram, East Godavari District. After assignment of the said plot, a house has been constructed in the said plot within the prescribed time by following terms and conditions of the said D-Form Patta. It is stated that the petitioner mortgaged the said property in favour of the 2nd respondent by depositing the said D-Form Patta. As the 2nd respondent is in possession and occupation of the said house plot in contravention of Sub-Section (1) of Section 3 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977, (for short "the Act"), the petitioner made a representation before the 1st respondent on 23-07-2007 to restore possession of the said house plot in his favour.

I am of the opinion that the house site assigned in favour of the landless poor is not alienable in any manner including mortgage in favour of any person. If any person is found in possession of the assigned land other than the original assignee, it shall be presumed that there is a contravention of Sub-Section (1) of Section 3 of the Act. Therefore, it is the duty of the Assigning Authority to see that no assigned land is transferred or alienated in any manner and if any such alienation or transfer is made, which is prohibited, and the action has to be taken for resumption of the land under Section 4(1) (a) of the Act. In that connection, either it is open for the Assigning Authority to restore possession in favour of the original assignee or his legal heirs or assign the same in favour of other eligible landless poor.

As it is stated that the representation is pending before the 1st respondent, without expressing any opinion on the merits of the case, I am of the opinion that it is just and proper to direct the 1st respondent to consider and dispose of the representation of the petitioner, dated 23-07-2007.

Accordingly, the writ petition is disposed of directing the 1st respondent to consider and dispose of the representation of the petitioner, dated 23-07-2007, in accordance with law, as expeditiously as possible, as indicated above. There shall be no order as to costs.

07-12-2007

Prv